



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,839	01/24/2001	Philip D. Mooney	129250-001021/US	2205
33498 7590 07/10/2008 CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC P.O. BOX 1995 VIENNA, VA 22183				
EXAMINER NGUYEN, TU X				
ART UNIT 2618		PAPER NUMBER		
MAIL DATE 07/10/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: PHILIP D. MOONEY, JOSEPH M. CANNON
AND JAMES A. JOHANSON

Application No. 09/767,839
Date Mailed: July 9, 2008

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 28, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

Evidence Relied Upon

On October 16, 2007 an Examiner's Answer was mailed. The Evidence Relied Upon section of the Examiner's Answer is defective. The Examiner relied upon the Lowe (US Patent 6,298,218) reference in the statement of the grounds of rejection for claims 18 and 49-50 and therefore it must be included in the "Evidence Relied Upon" section.

In accordance with MPEP § 1207.02, the "Evidence Relied Upon" should include:

A listing of the **>evidence< relied on >(e.g., patents, publications, admitted prior art)<, and, in the case of nonpatent references, the relevant page or pages.

Application No. 09/767,839

Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 correcting the Evidence Relied Upon section as noted above; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: /Krista Zele/
Krista Zele
Deputy Chief Appeals Administrator
(571) 272-9797

KZ/tsj

cc: CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183